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Standing Committee on the Legislative Assembly

Report on the Service of Process within the Precincts of the House

1st Session 34th Parliament
37 Elizabeth II

STANDING COMMITTEE ON
THE LEGISLATIVE ASSEMBLY



COMITÉ PERMANENT DE
L'ASSEMBLÉE LÉGISLATIVE

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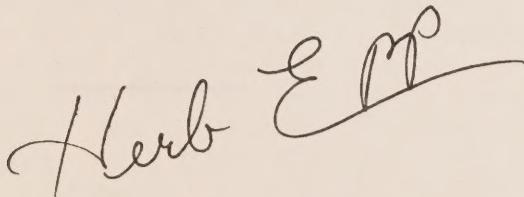
LEGISLATIVE ASSEMBLY
ASSEMBLÉE LÉGISLATIVE

TORONTO, ONTARIO
M7A 1A2

The Honourable Hugh Edighoffer, M.P.P.,
Speaker of the Legislative Assembly.

Sir,

Your Standing Committee on the Legislative Assembly has the honour to present its Report and commends it to the House. Pursuant to Standing Order 32(d), your Committee requests that the Government table a comprehensive response with respect to the recommendations contained therein.



Herbert A. Epp, M.P.P.
Chairman

Queen's Park
13 April 1988



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Introduction

In February, 1987, the Standing Committee on the Legislative Assembly considered the matter of the service of legal process on a member of the Assembly within the precincts of the House. The Committee presented a report on this matter to the House on 29 April 1987. The report had not been debated or adopted at the dissolution of the 33rd Parliament on 31 July 1987. The Committee does not wish to deal with the specific circumstances involving a former member of the Assembly on which its predecessor committee reported. However, the Committee is of the opinion that the issue in general must be resolved by the Assembly. It is for this reason that the Committee brings forward the report in this Parliament.

Service of Process in the Precincts

A member is immune from service within the precincts of the House by virtue of a privilege enjoyed by the House in its corporate capacity on the ground that the service, or attempted service, of process in the precincts of the House is a violation of the dignity of, and an insult to, Parliament and an abuse of the privilege of admission to the precincts extended to persons by the House.

No member of Parliament, officer or employee of the Office of the Assembly, employee of any caucus or of any member, or other person, may authorize or invite a person onto the precincts to serve legal process.

The Committee is of the opinion that sufficient uncertainty exists with respect to the interpretation of section 38 of the Legislative Assembly Act that the section should be repealed and provision made to specifically prohibit the service of civil process upon any person in the Legislative Building, in any room in which a properly constituted committee of the House is meeting while the committee is meeting away from the seat of government, and in the legislative office of a member which is not located within the Legislative Building. In the latter case, such an office would not include the constituency office of a member but would include a member's office in the Whitney Block or in a similar office assigned to a minister of the Crown or a parliamentary assistant. Such an office would be designated to be an office for the purposes of the Act by the Speaker.

Recommendations

Your Committee recommends that:

1. Section 38 of the Legislative Assembly Act, being chapter 235 of the Revised Statutes of Ontario, 1980, be repealed and the following substituted therefor:
 38. No person shall make a personal service that is required or authorized by law in a civil matter upon another person,
 - (a) in the Legislative Building;
 - (b) in a room or place in Ontario in which a duly constituted committee of the Assembly is meeting; or
 - (c) in an office of a member of the Assembly, other than a constituency office, that is situated outside the Legislative Building, and that is designated by the Speaker for the purposes of this section.

Section 39 of the said Act be amended by striking out "the periods mentioned in section 38" in the first line and inserting in lieu thereof "a session of the Legislature or during the twenty days preceding or the twenty days following a session".

Paragraph 11 of subsection 45(1) of the said Act be repealed and the following substituted therefor:

11. Making a service upon a person in contravention of section 38.

The Committee is of the opinion that it is important that every effort be made to ensure that members of Parliament and those involved with or interested in the work of Parliament are aware of matters which may be categorized as contempts of Parliament.

Subject to the amendment of the Legislative Assembly Act as proposed in recommendation 1 above, your Committee recommends that:

2. A statement with respect to service of process in the precincts of the House be circulated to all members of the Assembly and their staff, the staff of the Office of the Assembly, all deputy ministers, and process servers in the Province and that the statement also be circulated to all police forces by the Solicitor General and that The Law Society of Upper Canada inform the legal profession of the statement through the Society's "Communiqué" or such other means as the Society deems appropriate.

Your Committee further recommends that:

3. The statement proposed in recommendation 2 be in the following words:

NOTICE

OFFENCES AGAINST THE LEGISLATIVE ASSEMBLY OF ONTARIO

It is a contempt of the House to serve, or to attempt to serve, a civil process in the Legislative Building, in a room or place in Ontario in which a duly constituted committee of the Assembly is meeting or in an office of a member of the Assembly, other than a constituency office, that is situate outside the Legislative Building, and that is designated by the Speaker.

Service of a civil process in contravention of the Act will constitute a contempt of the House regardless of whether the person served, or attempted to be served, is a member of Parliament or another person.

No member of Parliament, officer or employee of the Office of the Assembly, employee of any caucus or of any member, or other person, may authorize or invite a person into the Legislative Building or other proscribed area to serve a civil process.

Persons wishing to serve a civil process on a member of Parliament or any other person working in the Legislative Building or in those areas of other buildings designated by the Speaker should contact the person to be served and make arrangements to serve the person outside the proscribed area. For example, a member could agree to be served in the park in front of or behind the Legislative Building or at his or her place of residence.

ISBN 0-7729-4085-1

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